

Ruth Nettles

090539-GU

From: Ann Bassett [abassett@lawfla.com]
Sent: Friday, March 05, 2010 4:38 PM
To: Filings@psc.state.fl.us
Subject: Docket No. 090539-GU
Attachments: 2010-03-05, FCG Petition to Intervene.pdf

The person responsible for this electronic filing is:

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The Docket No. is 090539-GU - Petition for approval of Special Gas Transportation Service agreement with Florida City Gas by Miami-Dade County through Miami-Dade Water and Sewer Department

This is being filed on behalf of Florida City Gas

Total Number of Pages is 5

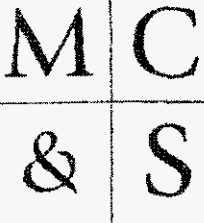
Florida City Gas' Petition to Intervene

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DOCUMENT NUMBER: DATE

01558 MAR-5 2010

FPSC-COMMISSION CLERK



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March 5, 2010

VIA ELECTRONIC FILING

Ms. Ann Cole, Commission Clerk
Office of Commission Clerk
Room 110, Easley Building
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

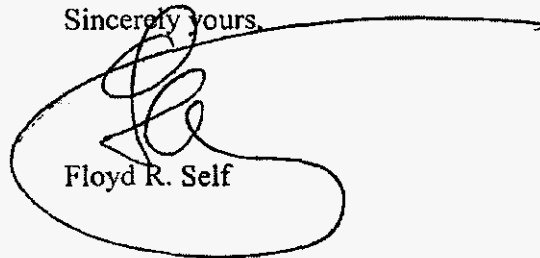
Re: Docket No. 090539-GU

Dear Ms. Cole:

Enclosed for filing on behalf of Florida City Gas is a Petition to Intervene in the above referenced docket.

Thank you for your assistance with this filing.

Sincerely yours,



Floyd R. Self

FRS/amb
Enclosure

cc: Shannon O. Pierce, Esq.
Parties of Record

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DOCUMENT NUMBER DATE

1558 MAR-5 0

FPSC-COMMISSION CLERK

THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition for approval of Special Gas)
Transportation Service agreement with)
Florida City Gas by Miami-Dade County)
through Miami-Dade Water and Sewer)
Department)
_____)

Docket No. 090539-GU
Filed: March 5, 2010

PETITION TO INTERVENE

Florida City Gas ("FCG"), pursuant to Section 120.52(13), Florida Statutes, and Rules 25-22.039 and 28-106.205, Florida Administrative Code, hereby requests that the Florida Public Service Commission ("Commission" or "FPSC") grant it leave to intervene in this proceeding and as grounds therefore states:

1. FCG is a public utility regulated by the Florida Public Service Commission under Chapter 366, Florida Statutes, as a supplier of natural gas and as a provider of natural gas transmission.

2. FCG's principal place of business is 933 East 25th Street, Hialeah, Florida 33013-3403. Pleadings, orders, notices, discovery, and all other papers filed or served in this matter should be served upon:

Floyd R. Self, Esq.
Messer, Caparello & Self, P.A.
2618 Centennial Place
Tallahassee, FL 32308
850-425-5203 (telephone)
850-558-0656 (facsimile)
fself@lawfla.com

Shannon O. Pierce, Esq.
AGL Resources Inc.
Ten Peachtree Place, 15th Floor
Atlanta, GA 30309
404-584-3394 (telephone)
spierce@aglresources.com

3. This docket was initiated by Miami-Dade through its Water and Sewer Department ("MDWASD") by petition dated December 14, 2009. MDWASD has requested that the Commission find that it does not have the jurisdiction over the 2008 Special Gas Transportation agreement identified therein (hereinafter, the "2008 Agreement") executed by

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MDWASD and FCG. Alternatively, Miami-Dade requests that if the Commission does have jurisdiction over the 2008 Agreement that it approve it and order FCG to refund to MDWASD the difference between the 2008 Agreement rates and the current tariff rates now being charged by FCG to MDWASD.

4. FCG filed an answer to Miami-Dade's petition on December 29, 2009. In its answer, FCG challenged Miami-Dade's assertions and argued that (1) Commission has plenary jurisdiction over a public utility's retail sales of natural gas transportation, whether by special contract or tariff; (2) any going-forward special contract between MDWASD and FCG must be approved by the Commission; (3) there is no special contract between MDWASD and FCG currently in effect; (4) the gas transportation service rate in the contract is not adequately supported and so is improper; and (5) MDWASD improperly seeks relief from a lawfully approved tariff rate.

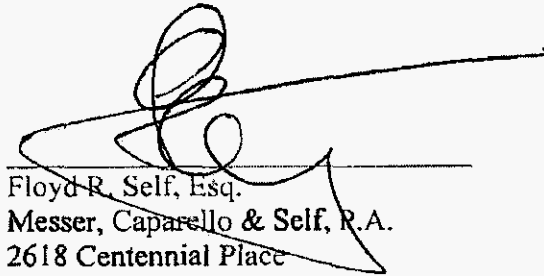
5. As is clear from the face of MDWASD's petition, FCG is a person whose substantial interests will be affected by any decision rendered in this docket. Whether the Commission has jurisdiction over the 2008 Agreement or not, in either situation MDWASD has made it clear that its objective is to seek enforcement of the 2008 Agreement by the courts or this Commission in order to have the benefit of the transportation rates in the 2008 Agreement. Notwithstanding FCG's initial agreement to the rates in the 2008 Agreement, FCG subsequently determined that those rates lacked a sufficient legal basis and that the using such rates would violate applicable law. Thus, any enforcement of such unlawful rates, by the Commission or the courts, would adversely and significantly impact FCG's general body of ratepayers and the utility itself. The determination of below cost rates led FCG to withdraw the 2008 Agreement after FCG had originally filed it with the Commission for approval. Moreover, enforcement of

the 2008 Agreement rate, and the request for a refund of any difference between the 2008 Agreement rate and the tariff rate collected by FCG or now being held in escrow by MDWASD would only further adversely impact FCG's general body of ratepayers and FCG's operations. Thus, the determination of the jurisdiction question raised by MDWASD will substantially and directly affect FCG's substantial interests and those of the general body of FCG ratepayers.

6. Second, Miami-Dade has specifically identified FCG in its Petition as a party to the proceeding. Factually, FCG is the party against which MDWASD is seeking to enforce the 2008 Agreement by which MDWASD seeks to have FCG provide natural gas transportation services to Miami-Dade's Water and Sewer Department operations. Petition, at page 2. As such, FCG is a specifically named person entitled to be a party to this proceeding.

WHEREFORE, because the substantial interests of FCG will be determined in this docket and because pursuant to Section 120.52(13), Florida City Gas meets the definition of a "party," FCG respectfully requests that the Commission grant it intervention in this matter as a party of record for all purposes.

Respectfully Submitted,



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Attorneys for Florida City Gas

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served on the following parties by Electronic Mail and/or U.S. Mail this 5th day of March, 2010.

Anna Williams, Esq.
Martha Brown, Esq.
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